

**DRAFT**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Telecommunications Division  
Carrier Branch**

**RESOLUTION T-16962  
October 27, 2005**

**R E S O L U T I O N**

**Resolution T-16962. Revocation of Three Certificates of Public Convenience and Necessity for Failure to Comply with a Commission Decision.**

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**Summary**

This Resolution revokes three competitive carrier authorities held by the companies listed in the Discussion Section for failure to comply with Decision 93-05-010, Ordering Paragraph 4.

**Background**

Decision 93-05-010 Ordering Paragraph 4 states that the Commission will consider the revocation of competitive carriers that are more than 90 days late in filing annual reports and remitting surcharges.

Telecom Division's (TD) records indicate that the carriers listed below are delinquent in these filings. The following steps were taken to contact the carriers and inform them of their delinquencies:

1. Consumer Protection and Safety Division (CPSD) sent a letter to all carriers on this list on August 18, 2005 that informed them of their delinquencies and required them to comply. The letter included an explicit warning of revocation for failure to comply.
2. Notice of company names was placed in the Commission Calendar for 30 days. Interested parties were invited to contact TD staff with questions or comments on these carriers.

## Discussion

The companies that would be revoked by this Resolution are the following:

	<u>Utility Type</u>	<u>CPCN#</u>	<u>Company Name</u>
1.	IER	6283	UKI Communications, Inc.
2.	IER	6730	Premier Telecom, Inc.
3.	IER	5912	New Century Telecom, Inc.

All three companies have been informed of their delinquencies and have failed to comply. It is possible that these companies have current customers; therefore, 30-day notice must be given to those customers that their carrier will cease operations. (See PU Code Section 2889.3.) The worst case scenario is that, if any customers have not switched carriers within 30 days after notice, they will need to “dial around” until they have selected a new pre-subscribed long distance carrier.

CPSD recommends that these Certificates of Public Convenience and Necessity (CPCN) be revoked and that the companies’ Utility Identification Numbers be cancelled, and TD concurs.

Charles Helein, who is New Century Telecom’s attorney, responded to the August 18, 2005 letter with two statements of which the Commission should be aware. First, he claims that his client has no telephone line under its control; therefore, we cannot use Sections 233 and 234 of the PU Code to state that his client is a public utility and subject to remitting surcharges to the Commission. In response, it should be pointed out that the Commission has already decided that switchless resellers (which New Century is) are public utilities under our jurisdiction. (See D.91-10-041.)

Second, Mr. Helein states that his client’s CPCN is a valuable right that “may not be interfered with” without due process; and, his client has not violated any laws warranting its revocation. In response, New Century may appeal this resolution in accordance with the Rules of Practice and Procedure and present its evidence of our alleged error in writing for Commission review.

TD’s draft resolution in this matter was noticed in the Commission’s Daily Calendar beginning on September 15, 2005, in accordance with PU Code Section 311 (g) (1). No comments were received from any party.

## **Findings**

1. The companies on the above list were certificated by the Commission in the long distance market.
2. Proper measures were taken by Consumer Protection and Safety Division to inform these companies of their delinquencies and the possibility of revocation for failure to correct them.
3. The carriers to be revoked by the Commission are switchless resellers and therefore under our jurisdiction.
4. The Commission is acting lawfully under D.93-05-010 to revoke these carriers for cause.
5. These carriers have the right to appeal this Resolution; therefore, the carriers' due process has not been violated.
6. The Legal Division may pursue the companies, if it chooses, for any owed surcharges.
7. The companies' authorities should be revoked and their Utility Identification Numbers should be cancelled for failure to comply with D.93-05-010 Ordering Paragraph 4.

## **THEREFORE, IT IS ORDERED that:**

1. The three companies listed in Ordering Paragraph 2 shall provide written notice to their customers, if any, of cessation of service within 10 days of the date of this resolution. An officer of each company shall sign a Certificate of Service and provide it and a copy of the 30-day customer notice to the Telecommunications Division when the notice is mailed. If any of these companies has no customers, its officer shall so attest in writing within 10 days of the date of this Resolution.
2. The Certificates of Public Convenience and Necessity granted to the following companies are revoked 40 days after the date of this Resolution:

	<u>Utility Type</u>	<u>CPCN#</u>	<u>Company Name</u>
1.	IER	6283	UKI Communications, Inc.
2.	IER	6730	Premier Telecom, Inc.
3.	IER	5912	New Century, Inc.

3. The companies' Utility Identification Numbers will be cancelled 40 days after the date of this Resolution.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 27, 2005. The following Commissioners approved it:

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STEVE LARSON  
Executive Director